THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.15070 OF 2006

DATED 29th SEPTEMBER, 2006

BETWEEN:

M.Venkataramudu and another.

… Petitioners

AND

The Commissioner of Appeals, O/o Chief Commissioner of Land Administration, Government of A.P., Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15070 OF 2006

ORDER:

The two petitioners are residents of Puttaparthi in Anantapur District. They filed the present writ petition assailing the orders of the District Collector, Anantapur, the second respondent herein, dated 15.05.2006 and 08.06.2006 as illegal and arbitrary. They also seek a consequential direction to the second respondent not to assign or alienate the land admeasuring Acs.0.12 cents in survey No.284/12 situated at Puttaparthi village, in favour of the third parties or to alienate the land in favour of the petitioners on payment of market value.

The petitioners purchased an extent of Acs.0.26 cents in survey No.48-2 of Yenumalapalli village, Puttaparthi Mandal under registered sale deed, dated 02.08.2004 from Nagaraju and Rudra Sai. The land

in survey No.284/12 is situated abutting the petitioners' land adjoining 80 feet necklace road in survey Nos.276 and 284. The petitioners allege that the piece of Government land in survey No.284/12 is only ingress and egress for the petitioners to reach the main road. Having come to know that the respondent is taking steps to assign the land to third parties, the petitioners made a representation to the second respondent on 08.12.2005 expressing their willingness to purchase the land by paying market value. They also filed writ petition being W.P.No.4842 of 2006 before this Court. The writ petition was disposed of on 13.03.2006 directing the second respondent to consider the representation of the petitioner and pass orders within four months from the date of copy of the said order. After disposal of the writ petition, second respondent issued notice to the petitioners and also filed written arguments through their lawyer. The second respondent rejected the request of the petitioners by proceedings, dated 15.05.2006, and also issued proceedings, dated 08.06.2006 withdrawing the land in survey No.284/12 from the prohibitory order book, ordered change of classification from 'Tope Poramboke' to 'Village Site Poramboke' and issued Gazette Notification divesting the Gram Panchayat of the right over the land.

At the stage of Admission itself, the District Collector has filed detailed counter affidavit. The averments in the counter in brief may be noticed. The land admeasuring Acs.0.12 cents in survey No.284/12 is abutting 80 feet road from Puttaparthi – Kammavaripalli road. Chitravathi river passes on the eastern side of the road and on the western side there is a Dhobi Ghat constructed several years ago by Sri Satya Sai Central Trust, Puttaparthi for the welfare of the washermen community. On the western side beyond Dhobi Ghat, there are several multistoried buildings constructed by residents of Puttaparthi. The petitioners have alternative way to reach main road through Chitravathi road on the western side of the land, and therefore, the allegation that the petitioners have no access to 80 feet road is not correct. Considering this, the District Collector rejected the request for elimination and also issued proceedings changing classification of the land duly withdrawing the land from Gram Panchayat by publishing notification in the District Gazetted, dated 16.05.2006. It is decided to allot the land to Rajakas as there is no suitable land available for such allotment.

The learned counsel for the petitioner submits that the adjacent landowner has an enforceable right to prevent the owner of such land from denying ingress and egress to his land. Secondly, he would submit that the land vests in the Gram Panchayat and in the absence of valid notification under Section 58(2) of the Panchayat Raj Act,

1994, the allotment of land to Rajakas is unsustainable. **Per contra**, learned Assistant Government Pleader for Revenue (General) submits that the District Collector has issued notification divesting the control of Gram Panchayat from the land and duly changing the classification of the land with a view to allot Rajakas. This is in accordance with law and as the petitioner has alternative access to reach the Chitravathi road on the western side of their land, he cannot have any grievance if the Government allot their land to poor persons.

There cannot be any denial that a citizen has no right to compel the State to transfer/alienate Government land to him or her for market value. The doctrine of Public Trust envisages that the State should control and regulate the use of land and water to subserve public welfare and public interest. If for any reason, the State desire to part with its land, such transfer can only be by conducting public auction or inviting tenders so as to get the maximum price for the States property. This, however, has an exception. The adjacent owner can always seek assignment of the limited extent of land, for the purpose of ancillary agricultural activities. Even then, it is only in the realm of discretion of the competent revenue authority. Therefore, as a right, the petitioners cannot claim the Government land in survey No.284/12 situated at Puttaparti Mandal. While denying the allegation that the petitioners would be deprived of access, if the land is allotted to third parties or not alienated to them, the District Collector made an averment in the counter affidavit that the petitioner has access to the main highway through Chitravati Road on the western side of the petitioners' land. Though the counter affidavit is filed on 14.08.2006, no reply affidavit is filed denying the same. Therefore, the petitioners cannot be heard to submit that as adjacent owners, they have a right to use the subject land as access road. The District Collector issued a notification, which was published in the District Gazette in Anantapur bearing No.ATP 27/2006, dated 16.05.2006 withdrawing the land from Gram Panchayat and also issued proceedings on 08.06.2006 changing the classification from Tope Poramboke to Village Site Poramboke. Indeed, the petitioners themselves have annexed the communication in
Rc.No.E2/6477/2006, dated 16.05.2006 of the second respondent to the third respondent whereby the Gazette No.27/06 was sent for publication in Distrct Gazette. In such a situation, the Court can always draw a presumption that the notification was published as per law. Even otherwise, the same being a curable defect cannot be a ground to invalidate rejection order of the second respondent.

The writ petition is devoid of any merit and is accordingly dismissed. No costs.

(V.V.S.RAO,J)

29.09.2006.
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